

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**JUSTIN MCPHAIL**

**PETITIONER**

**V.**

**CAUSE NO. 3:23-CV-00385-MPM-RP**

**GRENADA COUNTY SHERIFF**

**RESPONDENT**

**ORDER TRANSFERRING CASE**

On or about September 28, 2023, Justin McPhail, proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his continuing detention for contempt of court in the Chancery Court of Grenada County, Mississippi, for his failure to (1) submit to a hair follicle drug test; (2) submit to a psychological evaluation; and (3) maintain his child support obligation. Doc. # 1. McPhail *seemingly* believes that the judgment and subsequent orders entered by the Grenada County Chancery Judge exceeded his authority and jurisdiction, rendering them, in his mind, illegal and wholly void. *Id.* McPhail further takes issue with the Mississippi appellate court's recent decision upholding the chancery court rulings. *Id.*

McPhail has filed at least one unsuccessful § 2254 motion concerning the same Grenada County Chancery Court judgment, orders, and detention, which he now seeks to challenge. *See McPhail v. Grenada County Sheriff, et al.*, No. 4:18-CV-00116-DMB-RP. That action was dismissed both as procedurally defaulted and for failure to exhaust state remedies. *See id.* at Doc. # 12.

The Antiterrorism and Effective Death Penalty Act provides that before a district court may consider a second or successive petition, “the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). McPhail has not obtained such authorization. Rather than dismissing his petition

on this basis, the Fifth Circuit has allowed district courts to transfer the petition for consideration pursuant to 28 U.S.C. § 2244(a) and (b)(3)(C). *See In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997).

Therefore, in the interest of justice and judicial economy, it is hereby **ORDERED**:

1. That this petition is **TRANSFERRED** to the Fifth Circuit Court of Appeals for the petitioner to seek permission to file this successive § 2254 petition;
2. That the Clerk of Court is directed to transfer this petition and the entire record to the Fifth Circuit Court of Appeals in accordance with 28 U.S.C. § 2244(a) and (b)(3)(C), and *In re Epps*, 127 F.3d at 365;
3. That all pending motions are hereby **TERMINATED**; and
4. That this case is **CLOSED**.

This, the 21<sup>st</sup> day of August, 2024.

/s/Michael P. Mills  
**UNITED STATES DISTRICT JUDGE**  
**NORTHERN DISTRICT OF MISSISSIPPI**